IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Crl.MC.No. 2088 of 2007()

CC.145/2004 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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PETITIONER: ACCUSED:

MAXIM K.BABY,
PROPRIETOR, P & J MARKETING SERVICES, VASANTHAM,
SNRA-164, PAIPPINMOODU, PEROORKADA,
THIRUVANANTHAPURAM-5.

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENTS: COMPLAINANT:

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1. BAJAJ ELECTRICALS LTD., HAVING ITS
REGISTERED OFFICE AT 45-47, VER NAIRMAN POINT
MUMBAI-23 AND ITS BRANCH OFFICE AT BAJAJ BHAVAN,
42/877 ABC, POWER HOUSE ROAD, ERNAKULAM,
COCHIN-682 018, REPRESENTED BY THE POWER OF
ATTORNEY HOLDER, CYRIAC THOMAS.

2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI.S.U. NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2088 of 2007

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Dated this the 29th day of June, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I.Act. Consequent to his failure/inability to appear before the learned Magistrate, the learned Magistrate has issued a warrant of arrest against the petitioner. According to the petitioner, he is innocent. His absence earlier was not wilful. He is willing to appear before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No

special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over the order.

(R. BASANT)
Judge

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